

STATEMENT OF PURPOSE

RS19295

Three recent 3-2 decisions of the Idaho Supreme Court regarding the zoning of specific parcels of property have caused much confusion with respect to the standard to be applied in reviewing such decisions on appeal. In *Highlands Development Corp. v. City of Boise*, 145 Idaho 958, 188 P.3d 900 (2008), and in *Burns Holdings LLC v. Madison County*, 147 Idaho 660, 214 P.3d 646 (2009), a majority of the Court held that such decisions were not subject to judicial review under Idaho Code § 67-6521 because they did not pertain to a "permit authorizing the development." On the other hand, in *Taylor v. Canyon County*, 147 Idaho 424, 210 P.3d 532 (2009), a different 3-2 majority found that a decision regarding a rezone with a conditional zoning development agreement pursuant to Idaho Code § 67-6511A was subject to judicial review because the development agreement was found to be a "permit authorizing the development" under Idaho Code § 67-6521.

Decisions regarding changes in the zoning of particular parcels or sites are quasi-judicial decisions of local governmental entities in exactly the same manner as decisions on applications for permits which directly authorize particular development. There is no rational reason why they should be treated differently, and the Idaho Supreme Court had made no such distinction for over 25 years prior to the *Highlands* decision. See *Burns Holdings*, 214 P.3d at 650-53 (J. Jones, J., dissenting); *Highlands Development*, 145 Idaho at 962, 188 P.3d at 904 (J. Jones, J., dissenting).

This bill remedies the confusion arising from these decisions by expressly providing that all decisions pertaining to changes in the zoning of particular parcels or sites would be subject to judicial review by the District Court, where the standard of review set forth in Idaho Code § 67-5279 would apply as is the case with decisions to approve or deny a permit which authorizes development.

FISCAL NOTE

There would be no impact to the General Fund.

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